

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST**

**CONTINENTAL SERVICES
GROUP, INC. and PIONEER CREDIT
RECOVERY, INC.,**

Plaintiffs,

**PERFORMANT RECOVERY, INC.,
COLLECTION TECHNOLOGY, INC.,
ALLTRAN EDUCATION, INC., and
PROGRESSIVE FINANCIAL,
SERVICES, INC.,**

Intervenor-Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant,

**CBE GROUP, INC., PREMIERE
CREDIT OF NORTH AMERICA, LLC,
GC SERVICES LTD. PARTNERSHIP,
FINANCIAL MANAGEMENT SYSTEMS,
INC, VALUE RECOVERY HOLDINGS,
LLC, WINDHAM PROFESSIONALS,
INC., and AUTOMATED COLLECTION
SERVICES, INC.,**

Intervenor-Defendants.

**Nos. 17-449, 17-499,
17-493, 17-517, 17-578,
17-558, 17-633
Consolidated
Judge Thomas C. Wheeler**

**PLAINTIFF PROGRESSIVE FINANCIAL SERVICES, INC.’S
REQUEST FOR EXPEDITED HEARING
ON THE GOVERNMENT’S MOTION TO DISMISS**

Progressive Financial Services, Inc. (“Progressive”) requests that the Court set an expedited hearing date for argument regarding the Government’s pending Motion to Dismiss Progressive’s Complaint and states the following in support of its request:

1. On April 21, 2017, Progressive filed its original complaint in case no. 17-558, which case has now been consolidated with the above-captioned matter. (ECF 1). Progressive also filed a request for a TRO/preliminary injunction to prevent the Department of Education (“ED”) from recalling its “in-repayment” accounts. (ECF 5, 6). ED had announced its intention to recall those accounts before completing its corrective action to fix the multitude of errors with its 2016 procurement process for the award of Private Collection Agency (“PCA”) contracts.
2. After entering a series of temporary restraining orders, on May 2, 2017, the Court granted the Plaintiffs and Intervenor-Plaintiffs a preliminary injunction, which, in part, prohibited the recall of Progressive’s “in-repayment” accounts. (ECF 33, 34).
3. On May 19, 2017, the Government filed a Motion to Dismiss Progressive’s Complaint for lack of subject matter jurisdiction, arguing that “Progressive’s complaint raises an administrative contract claim that should be pursued under the Contract Disputes Act (CDA), 41 U.S.C. § 7103.” (ECF 44 at 1).
4. On May 22, 2017, Progressive filed an amended complaint and renewed request for a TRO/preliminary injunction (ECF 45, 46).
5. On June 16, 2017, Progressive (with CTI and Van Ru) filed a Joint Response to the Motion to Dismiss. (ECF 71).
6. On June 30, 2017, the Government filed its Reply in Support of its Motion to Dismiss. (ECF 73).
7. Based on the December 8, 2017 order issued by the Federal Circuit in a related matter, Progressive filed the same day in this Court a renewed request for a TRO to prohibit the recall of its “in repayment” accounts. (Dkt. No. 213: Case No. 17-449).

8. On December 12, 2017, this Court convened a status conference. At the status conference, Progressive argued in favor of its request for a TRO. The Government opposed the request. The Government also noted that its Motion to Dismiss remained pending and had been fully briefed over five months earlier.

9. Later that same day, this Court denied Progressive's request for a TRO, stating "the Court is persuaded that Progressive's position presents a Contract Disputes Act claim, not a bid protest claim." (Dkt. No. 214; Case No. 17-449).

10. Based on the Court's ruling and, given that, as the Government noted, its Motion to Dismiss has been ripe for decision for more than five months, Progressive respectfully requests that this Court set an expedited hearing on the Government's Motion to Dismiss.

Date: December 15, 2017

Respectfully submitted,

PROGRESSIVE FINANCIAL SERVICES, INC.

By: s/ Thomas A. Coulter

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CERTIFICATE OF FILING AND SERVICE

I certify that on December 15, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to counsel for all parties.

s/ Thomas A. Coulter

Thomas A. Coulter